his promises to pay her a reduced sum of $500 from July, 1982, he had not fulfilled those promises and since January, 1982, had not been paying her any maintenance. Under those circumstances, I do not consider that leave is required for the applicant to seek maintenance as the respondent, by his own conduct, has agreed to maintain her all along and therefore Rule 56(2) is not applicable.

My attention was also drawn to section 78 of the Law Reform (Marriage and Divorce) Act 1976 when considering the quantum of maintenance, particularly to the apportionment of blame by either party to the breakdown of the marriage. The respondent maintains that the applicant had left the matrimonial home for another man and as she was the sole cause of the breakdown of the marriage, her conduct disentitles her to any maintenance whatsoever. A perusal of the petition clearly shows that two grounds for divorce are cited, namely desertion without cause and that the marriage had irretrievably broken down. There is no allegation of adultery cited in the petition and if anything at all, both parties must have contributed to the breakdown of the marriage.

The applicant works at the Hongkong and Shanghai Bank, earning a salary of $1,000 per month. The house presently occupied by the respondent and his mistress is registered in her name and she is presently living with her parents in a single storey terrace house which is quite congested. With her two daughters coming to live with her, she has every intention of renting a bigger house and this would mean extra expenses involved.

As I have concluded that the applicant is entitled to being maintained by the respondent and since he had as long ago as 1982 agreed to do so at the rate of $500 per month, I accordingly ordered that the respondent pay her that amount as maintenance with effect from January 1, 1982.

Order accordingly.

Solicitors: *Skrine & Co.; Shook Lin & Bok.*

ABDUL GHAFFAR v. PERBADANAN PEMBANGUNAN BANDAR

[A.C.J. (Harun J.) Janaury 28 & 31, 1985]

[Kuala Lumpur – Civil Appeal No. 56 of 1983]

Landlord and Tenant – Lease – Claim for vacant possession – Notice to quit sent by post – When effective.

A notice to quit sent by registered post is effective at the time when the notice would have been delivered in the ordinary course of the post.

Cases referred to:

(1) *Papillon* v. *Bruntoh* (1860) 5 H. & N. 518; 157 E.R. 1285, 1286.

(2) *Gresham House Estate Co.* v. *Rossa Grande Gold Mining Co.* [1870] W.N. 119.

CIVIL APPEAL.

T. Ariarajah for the appellant.

Syed Ahmad Helmy bin Syed Ahmad Dahlan for the respondent.

Cur. Adv. Vult.

Harun J. : This is an appeal from the decision of the learned Magistrate at Kuala Lumpur given on September 6, 1982 wherein the appellant was ordered to deliver vacant possession of certain premises and pay double rent from March 1, 1982, interest and costs and the counterclaim for damages was dismissed. The respondent was the lessee of a 7-storey building for a term of 10 years expiring in July 1982 and had to deliver up vacant possession of the entire building to the owners by that date. The appellant was a tenant of the respondent of that portion of the premises known as No: 53-A, Jalan Tiong Nam, off Jalan Raja Laut, Kuala Lumpur, on a monthly tenancy.

In view of the imminent expiry of the lease, the respondent decided to terminate the appellant's tenancy. It did this by a written notice to quit dated January 30, 1982 and delivered to the appellant by A.R. registered post. That notice states that one month's notice to quit is being given commencing from February 1, 1982 and expiring on February 28, 1982. The notice was actually received by the appellant on February 6, 1982.

The respondent contends that the notice to quit is good because it took effect the moment it was put in the post on January 30, 1982. The question then is where a notice to quit is delivered through the post, when does it become effective – time of posting or time of receipt.

In *Papillon* v. *Brunton*[1] at page 1286, Pollock C.B. held "that in the case of a notice to quit the putting it into the post-office is sufficient, and that the party sending it is not responsible for its miscarriage."

In *Gresham House Estate Co.* v. *Rossa Grande Gold Mining Co.*[2] it was held that if a letter

properly directed, containing a notice to quit, is proved to have been put into the post-office, it is presumed that the letter reached its proper destination at the proper time according to the regular course of business of the post-office, and was received by the person to whom it was addressed.

In my view taking these two authorities together, a notice to quit sent by registered post is effective at the time when the notice would have been delivered in the ordinary course of the post.

In the instant case the notice to quit was posted at Kuala Lumpur on January 30, 1982 to an address at Kuala Lumpur and in the ordinary course of the post would have been delivered on the following day. The notice to the appellant would have been effective then. But January 30, 1982 was a Saturday and there is no postal delivery on a Sunday. The February 1, 1982, although a Monday, was a public holiday in Kuala Lumpur being Federal Territory Day and there was no postal delivery on that day either. In the normal course of the post therefore, the effective date was February 2, 1982. The fact that it was delivered on February 6, 1982 is not the fault of the respondent. In the circumstances of this case, the notice should have been posted on January 29, 1982 at the latest. I accordingly held that the notice to quit dated January 30, 1982 did not determine the tenancy. In the event, I allowed the appeal with costs and set aside the order of the learned Magistrate in respect of the respondent's claim.

Appeal allowed.

Solicitors: *T. Ariarajah & Co.; Adlan & Haji Suhaimi & Co.*

CHAN CHOW WANG v. MALAYSIAN BAR

[O.C.J. (Harun, Vohrah & Zakaria Yatim JJ.) January 22, 1986]

[Kuala Lumpur – Originating Motion No. A7 of 1985]

Legal Profession – Application to have name restored to Roll of Advocates and Solicitors – Test to be applied – Whether it is fair and reasonable to readmit the applicant to the Bar – Legal Profession Act, 1976, ss. 93(2), 101 & 107(1)

This was an application by the applicant that his name be restored to the Roll of Advocates and Solicitors under section 107 of the Legal Profession Act. The applicant was admitted as an Advocate and Solicitor of the High Court in Malaya on August 8, 1969. Prior to practising in Malaysia he had practised in Singapore from 1969 to 1974. On November 22, 1974 he was struck off the Roll of Advocates and Solicitors by the High Court of Singapore. He then practised in Malaysia from 1975 to 1979. On March 29, 1979 he was disbarred and expelled from the Honourable Society of Lincoln's Inn by the Senate of the Inns of Court. On November 17, 1979 he was struck off the Roll of Advocates and Solicitors in Malaya. On February 11, 1985 the High Court of Singapore ordered that the name of the applicant be restored to the Roll of Advocates and Solicitors in Singapore. However, the Special Council of Lincoln's Inn did not readmit or reinstate the applicant to the Bar of England and Wales.

Held: the test to be applied is whether in the circumstances of the case it is fair and reasonable to re-admit the applicant to the Bar. The re-admission to the Bar in Malaya must be considered independently of his re-admission to the Bar in Singapore or the refusal of the Honourable Society of Lincoln's Inn to reinstate him to the Bar of England and Wales. On a full consideration of the facts and circumstances of the case, the Court was satisfied that it is fair and reasonable to re-admit the applicant to the Bar of Malaya.

Cases referred to:

(1) *Ex parte Clyne* [1962] State Reports (N.S.W.) 436, 443.
(2) *Re Chin Swee Oon* [1964] M.L.J. 124.

ORIGINATING MOTION.

Raja Abdul Aziz Addruse for the applicant.
Sri Ram for the Bar Council.

Cur. Adv. Vult.

Harun J. (**Vohrah** and **Zakaria Yatim JJ.** concurring): This is an application by Chan Chow Wang for an order that his name be *restored* to the Roll of Advocates & Solicitors under section 107 of the Legal Profession Act, 1976 (the Act).

Mr. Chan was called to the Bar of the Honourable Society of Lincoln's Inn on November 21, 1967. He was admitted as an advocate & solicitor of the Supreme Court of Singapore on October 9, 1968; and admitted and enrolled as an advocate & solicitor of the High Court in Malaya on August 8, 1969. He practised in Singapore from 1969 to 1974 and in Malaysia from 1975 to 1979. On November 22, 1974 he was struck off the Roll of Advocates & Solicitors by the High Court of Singapore. On March 29, 1979 he was disbarred and expelled from the Honourable Society of Lincoln's Inn by the Senate of the Inns of Court. On November 17, 1979 he was struck off the Roll of Advocates & Solicitors of the High Court in Malaya. On February 11, 1985 the High Court of Singapore ordered that the name of Mr. Chan be restored to the Roll of Advocates & Solicitors. On June 12, 1985 the Special Council of the